reasonable classification. Neither can the validity of the tax be attacked on the ground that the motive in passing the act was to deprive the railroads of their advantage of exemption from *ad valorem* taxation. Also, that a company's charter provides "that its capital stock, the dividends thereon, and the road and fixtures, depots, etc., shall be forever exempt from taxation, provided the stock or dividends, when the dividends exceed legal interest, may be subject to taxation in common with money at interest, but no tax shall be imposed so as to reduce dividends below legal interest," does not exempt such company from privilege taxation.

Taxation—Railroad Machine Shop.—Western N. Y. & Pa. R. Co. v. *Venango County*, 38 Atl. Rep. (Pa. 1088). *Held*, in an action to enjoin the collection of taxes, that a machine shop belonging to a railroad company, and used exclusively for repairs in its own business, is not subject to local taxation. Case of *East Pa. R. Co.*, 1 Wash. (Pa.) 428, distinguished. The test is whether the property under discussion is used exclusively in the distinct and direct furtherance of the object for which the charter of the company was granted.

Inheritance Tax—Validity—Estates Previously Probated.—Gelsthorpe, County Treasurer, v. *Furnell, et al.*, 51 Pac. Rep. (Mont.) 267. An inheritance tax is not void in so far as it applies to estates probated, but not distributed until after it comes into effect. Although the privileges and rights of heirs and legatees to take and receive shares of the property of a decedent are vested immediately upon the death of the testator or intestate (see Sec. 1794, Civ. Code); yet the term "vested rights" should not be set up as "a shield of protection" against all considerations designed by the legislature to promote the general welfare, or establish an advanced public policy for the State. Cooley, Const. Lim., p. 437. The right, moreover, is subject to the control of the courts for distribution and is dependent upon the laws for its protection. See *Carpenter* v. *Com.*, 17 How. 456; *Succession of Oyer*, 6 Rob. (La.) 504; *Succession of Deyraud*, 9 Rob. (La.) 357.

TRADE-MARKS.

Trade-Mark—Geographical Name—Unfair Competition.—Gage-Downs Co. v. *Featherbone Corset Co.*, 83 Fed. Rep. 813. A Chicago manufacturer, who for years has made corset waists and sold them as "Chicago Waists," until the goods under such name have become known to the trade as the goods made by him, may enjoin another in a different city and State from selling his goods as "Chicago Waists." The appropriation of the name of the place where goods are manufactured is not often protected, but where by the use of the name it has acquired a secondary signification, as a mark denoting the manufacturer rather than the place where the goods are made, and it is the manifest intent of the adverse user to derive advantage from the reputation the goods thus branded have attained in the market, it will be enjoined.

Trade Marks and Trade Names—Labels of Laborers' Union.—Hetterman et al., v. *Powers et al.*, 43 S. W. Rep. (Ky.) 180. That the members of certain voluntary trade unions of cigar makers are not strictly "in business" for themselves, but are employed for wages in producing cigars to which they have attached labels indicating such cigars to be the exclusive product of their labor, is no defense to an action brought to restrain others from using these labels. There is nothing objectionable in such labels, as denouncing other

makes of cigars than union-made ones, in that the organization which makes the cigars upon which the labels are placed is described as "opposed to inferior, rat-shop, coolie, prison, or filthy tenement house workmanship." The decisions on the question of the validity of such labels are not uniform. Opposed to enjoining the infringement are *Werner* v. *Brayton* (Mass. 1890) 25 N. E. 46; *Union* v. *Conhaim*, 40 Minn. 243, 41 N. W. 943; *McVey* v. *Bundel*, 144 Pa. St. 235, 22 Atl. 912; *Schneider* v. *Williams*, 44 N. J. Eq. 391, 14 Atl. 812. Sustaining the validity of the labels as "trade-marks," see *Strasser* v. *Moonelis*, 55 N. Y. Super. Ct. (affirmed, 15 N. E. 730); *Cohn* v. *People*, 149 Ill. 486, 37 N. E. 60. See also *State* v. *Hagen*, 6 Ind. App. 169, 33 N. E. 223; *Carson* v. *Ury*, 39 Fed. 777. In a number of States—and in Kentucky since this case arose—statutes have recently been passed recognizing the right of of wage earners to organize and select appropriate symbols to designate the results of their handiwork.

MISCELLANEOUS.

Bank—Acting as Agent—Liability.—Pefforday v. *Citizens' National Bank of Latrobe*, 38 Atl. Rep. (Pa.) 1030. Plaintiff entrusted defendant national bank with several shares of railroad stock, to be forwarded by them and sold according to his direction by the bank's brokers. The stock was sold and the broker's check forwarded to the bank which instantly placed the amount to the credit of the plaintiff. Meanwhile the brokers had failed, and the bank having forwarded the check it was returned protested. Defendant thereupon charged back to the plaintiff the amount of the check, and the plaintiff, having overdrawn his account according to the latter accounting, sues the bank for the balance due him according to the first accounting, *Held*, that plaintiff could recover. A national bank in buying or selling stock exercises no function pertaining to it as a bank. In this case it was a voluntary action on the part of the bank and having assumed the liability of an agent it was subject to the rules governing that relation. In applying the amount of the check to the plaintiff's credit they acted voluntarily and were liable for any loss arising therefrom. *Paul* v. *Ginn*, 165 Pa. St. 139, 30 Atl. Rep. 721. Judge Mitchell, dissenting, based his opinion on the ground that the relation existing between the defendant and plaintiff was that of bank and depositor rather than that of principal and agent.

Divorce—Adultery—Condonation.—Gorser v. *Gorser*, 38 Atl. Rep. (Pa.) 1015. In an action for divorce by a husband it was shown that the wife had committed various improprieties which she had admitted to him, but denied actual guilt. Thereupon he had accepted her explanation but had never cohabited with her afterwards. Proof of her guilt after that time having been established, it was *held* by the court that such previous condonation would not prevent the decree from being granted.

Appeal—New Trial—Surprise.—Allen v. *Chambers et al.*, 51 Pac. Rep. (Wash.) 478. The surprise contemplated by the statute as a ground for a new trial must relate to a matter of fact, and not of law; but where it is shown that appellants neglected to introduce material evidence shown by their affidavits to be in their possession, relying on a ruling of the supreme court declaring such testimony not necessary for their view of the case, which ruling was apparently directly overthrown by a subsequent decision of the court, rendered after appellants' case had been submitted to the trial judge, a new trial will be granted. See *Starkweather* v. *Loomis*, 2 Vt. 573.